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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,723	07/17/2006	William M. Heyn	WHP-P1-PCT	8712
7590 06/10/2011				
William H. Holt Law Offices of William H. Holt 12311 Harbor Drive Woodbridge, VA 22192			EXAMINER SULLIVAN, DEBRA M	
			ART UNIT	PAPER NUMBER
			3725	
			MAIL DATE	DELIVERY MODE
			06/10/2011	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/586,723

**Applicant(s)**

HEYN, WILLIAM M.

**Examiner**

DEBRA SULLIVAN

**Art Unit**

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2011 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 1, 2011 has been entered.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: the phrase "said method being characterized by" creates confusion within the claim. Specifically it is not clear if the subject matter following the phrase is further defining the securing step or if the phrase is intended to further define an additional step within the method. A suggestion to overcome the objection is to replace the phrase "said method being characterized by" with "said method further comprising a step of displacing..." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regards to claim 1, the limitation "peelably securing" and "peelably secured" renders the claim indefinite because it is unclear how a peripheral portion is to be secured to a flange portion if it is peelable. The examiner is interpreting the limitation to claim that the

peripheral portion of a peelable end panel is secured to the planar disposed flange portion. Claim 1 recites the limitation "the step" in line 6 and in line 9. Claim 5 recites the limitation "the step" in lines 1-2. There is insufficient antecedent basis for these limitations in the claims.

### ***Response to Arguments***

Applicant's arguments, see page 6, filed March 1, 2011, with respect to claim 1 have been fully considered and are persuasive. The rejection of claims 1-7 has been withdrawn.

### ***Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter:

US 3,21,2468 to Rychiger discloses a method of applying an end panel (5) to a closure ring (3', 3") of a container wherein a peripheral portion of a peelable end panel (5) is secured to a flange portion (3") of the closure ring and the flange portion (3") is displaced with the end panel (5) secured thereto to from an acute angle with the plane [see figures 2-5; col. 2 line 35 – col. 3 line 23]. Rychiger fails to disclose performing the displacing step prior to securing the ring member and end panel to a container since the closure ring of Rychiger is formed from the top portion of the container and is therefore already secured to the container.

US 1,866,469 to Hirsch et al discloses a method of applying an end panel (14) to a closure ring (2) for a container (1) comprising the steps of securing a peripheral portion of the end panel (14) to a planar disposed flange portion (13) and displacing the flange portion (13) with the end panel (14) secured thereto from the plane to an angle thereto for forming an acute angle with the plane prior to securing the ring member (2) and the end panel (14) to the container (1) [see figures 1, 2, 8 & 9; col. 2 lines 64-70]. Hirsch et al fails to disclose the end panel being a peelable end panel which is permitted to be peeled from the closure ring.

The art of record (considered as a whole) neither anticipates nor renders obvious “displacing said flange portion, with said end panel peelably secured thereto, from said plane to an angle thereto for forming an acute angle with said plane prior to securing said ring member and end panel to a container” in combination with the rest of the claimed limitations set forth in the claim. To modify Hirsch et al to have a peelable end panel to obtain the claimed invention would destroy the workability because displacing used by Hirsch et al would not permit the end panel to be peelable from the closure ring. Furthermore there is not motivation to modify the combined structure of the container and closure ring of Rychiger to be separate since doing so would destroys the overall invention of Rychiger.

Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra Sullivan whose telephone number is (571) 272-1904. The examiner can normally be reached Monday - Friday 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached at (571) 272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Debra M Sullivan/

Primary Examiner, Art Unit 3725